

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO.: 1:15CV1046
)	JUDGE SOLOMON OLIVER, JR.
Plaintiff,)	
)	
v.)	
)	
CITY OF CLEVELAND,)	<u>UNITED STATES' SUPPLEMENTAL</u>
)	<u>OPPOSITION TO CITY'S MOTION</u>
Defendant.)	<u>FOR RELIEF</u>

The United States respectfully submits this supplemental opposition in further response to the City of Cleveland's Motion for Relief or Extension of Time for Its Obligation to Produce Records in Response to Request *[sic]* from CPC (ECF No. 507) ("Motion") to provide the Court with recent information relating to the City's failure to provide information to the Community Police Commission (CPC).

The Parties discussed the City's Motion for Relief at the March 7 and March 20, 2024, status conferences. On March 26, 2024, the Court issued a minute entry stating: "The court will take the issue of the outstanding CPC documents requests, which the parties have briefed, under advisement in short order." ECF No. 517.

The CPC made document requests that are the subject of the Motion on October 27, 2023, and January 18, 2024. The City's productions were due on November 17, 2023, for the

first request and February 8, for the second request. *See* ECF No. 382 at pp. 6-7. Since the City filed its motion for an extension of time to respond, the City has made little progress to produce any documents to CPC to which it is entitled under the Settlement Agreement, the City's own Charter, and the CPC Document Request Process (ECF No. 514). Nor has it even proposed a schedule for production of the documents, as the attached exhibits make clear.¹ The attached exhibits include an email between the City, the United States, and the Monitoring Team, which represents only a small portion of the communications the United States and the Monitoring Team have had with the City in an effort to expedite the City's response to these requests. Indeed, in numerous meetings since March 7, 2024, the United States has asked the City for information about how and when it will respond to CPC information requests.

Attached as Exhibit 1 is an email string regarding the City's failure to produce documents to the CPC or explain adequate bases for delay. *See* Ex. 1 (April 3, 2024, email from counsel for the United States repeating to counsel for the City that video recordings, such as Wearable Camera System (WCS) recordings, do not need to be redacted because they do not contain Criminal Justice Information Systems (CJIS) information (relevant language highlighted)). This email correspondence shows that, for one of the CPC data requests that was the subject of the City's Motion, the City planned to review and redact over 44 hours of WCS recordings. The United States responded that there was not a need to do so because the WCS recordings do not contain CJIS information. The City has not responded to this email and has not provided an updated schedule for completing production of the materials that are the subject of the City's

¹ The United States does not repeat the same facts and argument already presented to the Court in the United States' Opposition to the City Motion (ECF No. 510). The United States continues to rely on its Opposition which provides ample basis to deny the City's Motion.

Motion. Accordingly, it is unclear whether the City is continuing to withhold production of the WCS recordings because they may contain CJIS material when the City need not expend the time and resources redacting this material and obstructing CPC's lawful access, or if the City is withholding these recordings on some other basis.

In addition, this email requested that the City provide an updated production schedule for the materials that were the subject of the City's Motion. The City has never responded to this request. Indeed, the City has never provided a production schedule, which counsel for the United States first requested on March 13, 2024. (Exhibit 1, page 7.)

In the time since the City filed its Motion, it has not fulfilled CPC's requests that were the subject of that Motion. Attached as exhibit 2 is a chart the Court Monitor provided to the Parties to track the CPC requests and the City's responses. The Court Monitor produced this chart to the Parties on April 19, 2024. The chart shows that the City still has not fully responded to the CPC's October 27, 2023 and January 18, 2024, data requests that were the objects of the City's Motion. This chart also shows that the City is similarly non-responsive to nearly all other CPC data requests dating as far back as July 31, 2023. Accordingly, the most up-to-date information shows that the City has not fulfilled the CPC data requests that were the subject of the City's Motion.

The City is required by the Settlement Agreement in this case, and its Charter, to provide certain information to the CPC. The City has failed to do so. For the foregoing reasons and the reasons set forth in the United States' prior Opposition (ECF No. 510), the United States respectfully requests that the Court deny the City's Motion. A proposed order is attached to the United States' Opposition. (ECF No. 510-4.)

Respectfully submitted,

FOR THE UNITED STATES

REBECCA C. LUTZKO
U.S. Attorney
Northern District of Ohio

Michelle L. Heyer (OH: 0065723)
Sara E. DeCaro (OH: 0072485)
Assistant U.S. Attorneys
United States Court House
801 West Superior Avenue, Suite 400
Cleveland, OH 44113
(216) 622-3686 (Heyer)
(216) 622-3670 (DeCaro)
(216) 522-2404 (FAX)
Michelle.Heyer@usdoj.gov
Sara.Decaro@usdoj.gov

KRISTEN M. CLARKE
Assistant Attorney General
Civil Rights Division

STEVEN H. ROSENBAUM
Chief
Special Litigation Section

/s/ R. Jonas Geissler
Timothy D. Mygatt
Deputy Chief
R. Jonas Geissler
Acrivi Coromelas
Trial Attorneys
United States Department of Justice
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue, NW
Washington, DC 20530
Tel: (202) 353-1091; Fax: (202) 514-4883
Email: Timothy.Mygatt@usdoj.gov
Email: Jonas.Geissler@usdoj.gov
Email: Acrivi.Coromelas2@usdoj.gov